

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7272 OF 2006

1. M/s. Gunjyot Properties P.L. & Anr.] .. Petitioners

Versus

1. M/s. Kalamandir Sarees & 12 ors.] .. Respondents

None for the petitioners.

Mr. Darshan R. Mehta i/b M/s. Dhruve Liladhar & Co.
for the respondents Nos.2, 3, 5 to 7 and 9 to 13.

CORAM: S.B. MHASE, J.

DATED: 15TH JUNE, 2007

P.C. :

. Learned counsel for the petitioners is absent.

2. The order dated 7th October, 2006, passed by the Maharashtra State Cooperative Appellate Court in A.O. No.41 of 2005 is under challenge. The respondents had filed a Dispute No.CC/II/2005 in the Cooperative Court and in that dispute, the interim application - Exhibit-5 was made. The said application was rejected by the order dated 1st March, 2005. That order was challenged by filing A.O. No.41 of 2005. The A.O. is allowed and the order dated 1st March, 2005, refusing interim relief was quashed and set aside and thereby the

petitioners are restrained temporarily from carrying out any development activities pursuant to the development agreement dated 3rd October, 2002 on the open plot of land of the society and/or creating any third party interest thereon either himself or through his agents etc. So also, the original opponent No.13 is restrained from carrying out any construction activities on the plot of land of the society till the disposal of the dispute either through agents and sub-contractors etc.

3. Thus, the subject matter of the dispute is an open plot of the society and the said plot has been protected from any sort of development during the pendency of the litigation between the parties. If the petitioner-developers are allowed to develop the land, then in those circumstances, at the end of the dispute there will be a problem and the dispute becomes infructuous or fate accompli. Since the matter arises from an interlocutory application, this Court refrains to entertain the Petition and it is rejected. In view of rejection of the Petition the stay, already granted, stands vacated.

Sd/-
[S.B. MHASE, J.]